

F. Christopher Austin, Esq.
Nevada Bar No. 6559
LEX TECNICA, LTD.
10161 Park Run Drive
Suite 150
Las Vegas, Nevada 89145
Telephone: 702-518-5535
Email: chris@lextechnica.com

Attorneys for Plaintiff

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEVADA**

ADHERENCE d/b/a of MORISKY
MEDICATION ADHERENCE RESEARCH
LLC, a Nevada limited liability company,

Case No.: 2:24-cv-01590-JCM-NJK

Plaintiff,

**STIPULATED [PROPOSED]
PROTECTIVE ORDER**

CVS PHARMACY, INC., a Rhode Island corporation; and ASEMBIA, LLC, a Delaware limited liability company.

Defendants.

Pursuant to Rule 26(c) of the Federal Rules of Civil Procedure, Plaintiff Adherence d/b/a of Morisky Medication Adherence Research, LLC (“Plaintiff”) and Defendant CVS Pharmacy, Inc. (“Defendant”) (each, a “Party,” and together, the “Parties”), by and through their respective

1. Discovery and motion practice in this case is likely to require the parties to exchange and/or file with the Court documents containing trade secrets, confidential information, and/or otherwise proprietary and highly sensitive non-public business information.

2. To preserve the confidentiality of such information and to facilitate its exchange during discovery and its filing with the Court, the parties agree that good cause exists for entry of this Stipulated Protective Order (the “SPO”).

ve
plies
U.S.

21 || counsel, hereby agree and stipulate as follows:

1 3. This SPO applies to all designated information, documents, and other materials
2 produced in this matter consistent with the disclosure or discovery duties created by the Federal
3 Rules of Civil Procedure and the Court's Local Rules. This SPO applies to parties and nonparties
4 from whom discovery may be sought, when the information needs protection.

5 ***Definition and Designation of Confidential or Attorneys' Eyes Only***

6 4. The Designation of information under this SPO must be made by marking or
7 labeling the information, documents, or other materials CONFIDENTIAL or ATTORNEYS'
8 EYES ONLY, in a manner that will not interfere with its legibility.

9 5. **CONFIDENTIAL**. A person or entity who produces information, documents, or
10 other materials may designate them as CONFIDENTIAL when they in good faith believe the
11 information, documents, or materials contains nonpublic proprietary confidential technical,
12 scientific, financial, or business information.

13 6. A person or entity who produces information, documents, or other materials may
14 designate them as ATTORNEYS' EYES ONLY when they in good faith believe the information,
15 documents, or other materials contain:

- 16 a. sensitive technical information including research and development, manufacturing,
17 and patent prosecution information, as well as technical material, documents, or data;
- 18 b. sensitive business information including sensitive financial, marketing, sales, or
19 web traffic information and the identity of suppliers, distributors, and customers (potential
20 and actual);
- 21 c. competitive technical information including technical analyses or comparisons of
22 competitors' products;
- 23 d. competitive business information including nonpublic financial or marketing
24 analyses or comparisons of competitor's products and strategic product planning as well as
25 information or data relating to future products or services not yet commercially released
26 and/or strategic plans;

1 e. commercial agreements, licenses, settlement agreements, settlement
2 communications, or terms of the foregoing, the disclosure of which is likely to cause harm
3 to the competitive position of the producing party;

4 f. trade secrets, pricing, cost or profit information, sales or marketing forecasts or
5 plans, business plans, sales or marketing strategies, product or services development
6 information, engineering documents, testing documents, confidential employee
7 information, customer lists, vendor lists, and other non-public information of similar
8 competitive and business sensitivity; or

9 g. any other CONFIDENTIAL information the producing party reasonably and in
10 good faith believes would likely cause harm if disclosed to anyone other than those listed
11 in paragraph 9(a)-(h).

12 7. A party may designate all or a portion of any deposition testimony or
13 deposition exhibits as CONFIDENTIAL or ATTORNEYS' EYES ONLY when the deposition is
14 taken, by requesting the court reporter so designate in the transcript, or by providing notice of
15 the designation(s) to all other parties in writing no later than 30 days after receipt of the
16 deposition transcript by the party making the designation(s). Designations not made during the
17 deposition or within 30 days after receipt of the deposition transcript shall be waived.

18 8. A nonparty producing information (including testimony), documents, or
19 other materials, or as required by a subpoena, may designate the information (including
20 testimony), documents, or other materials as CONFIDENTIAL or ATTORNEYS' EYES ONLY.

21 ***Disclosure and Use of Designated Information, Documents, or Other Materials***

22 9. CONFIDENTIAL. The parties and counsel for the parties must not disclose
23 or permit the disclosure of any information, documents, or other materials designated
24 as CONFIDENTIAL by any other party or nonparty under this SPO, except that disclosures may
25 be made to the following:

26 a. counsel for a party, who are acting in a legal capacity and are actively engaged in
27 this matter, or paralegals, law firm staff, or associates supporting counsel in that capacity;
28 b. court personnel;

1 c. court-appointed special masters;

2 d. court reporters, recorders, and videographers engaged for depositions;

3 e. court-appointed or jointly-selected mediator or arbitrator;

4 f. technical advisors, including, but not limited to, outside experts, jury consultants,

5 researchers, or investigators, who are not a party to the action, not presently employed by

6 the receiving party or a company affiliated through common ownership with the receiving

7 party, but have been retained to provide technical or other expert services (e.g., expert

8 testimony or assist in litigation or trial preparation), but no disclosure shall be made until

9 an Acknowledgment and Agreement to be Bound (Attachment A) has been signed by the

10 person to whom the disclosure is to be made;

11 g. deposition and trial witnesses in connection with their testimony in the lawsuit;

12 h. independent providers of document reproduction, electronic discovery, or other

13 litigation services retained or employed specifically in connection with this litigation;

14 i. the insurer of a party to the litigation and their employees to the extent reasonably

15 necessary to assist the party's counsel to afford the insurer an opportunity to investigate

16 and evaluate the claim for purposes of determining coverage and for settlement purposes;

17 j. a party's representatives, officers, and employees as necessary to assist counsel

18 with this litigation; and

19 k. if those listed in paragraph 9(a)-(j) engage their partners, associates, employees,

20 staff, paralegals or other personnel to render reasonably necessary professional services,

21 then these individuals must be advised of the provisions of this SPO and must hold the

22 information, documents, or other materials in confidence.

23 10. ATTORNEYS' EYES ONLY. The parties and counsel for the parties may permit

24 the disclosure of any information, documents, or other materials designated as ATTORNEYS'

25 EYES ONLY by any other party or nonparty under this SPO only to those persons identified

26 in paragraph 9(a)-(h).

27 11. Information, documents, or other materials designated as CONFIDENTIAL or

28 ATTORNEYS' EYES ONLY under this SPO must not be used for any purpose whatsoever other

1 than preparing for and conducting the litigation in which the information, documents, or other
 2 materials were disclosed (including appeals).

3 12. Nothing in this SPO shall restrict in any way a producing party's use or disclosure
 4 of its own designated material. Nothing in this SPO shall be construed to prejudice any party's right
 5 to use any designated material in court or in any court filing with the consent of the producing party
 6 or by order of the Court. This SPO is without prejudice to the right of any producing party to seek
 7 further or additional protection of any designated material, or to seek modification of this SPO in
 8 any way, including, without limitation, an order that certain matter not be produced at all.

9 13. For the avoidance of doubt, the protections conferred by this SPO do not cover the
 10 following: (a) any information that is in the public domain at the time of disclosure to a receiving
 11 party, including, but not limited to: (i) advertising materials that have been actually published or
 12 publicly disseminated; (ii) materials that have been published or disseminated to the general public;
 13 or (iii) documents that have been submitted to any governmental entity without request for
 14 confidential treatment; (b) any information that becomes part of the public domain after its
 15 disclosure to a receiving party as a result of publication not involving a violation of this SPO or
 16 other obligation to maintain the confidentiality of such information, including, but not limited to,
 17 becoming part of the public record through trial or otherwise; (c) any information that the receiving
 18 party can show was already publicly known prior to the disclosure or that the receiving party can
 19 show by written records was received by it from a source who obtained the information lawfully
 20 and under no obligation of confidentiality to the producing party; (d) any information which the
 21 receiving party can show was independently developed by it after the time of disclosure by
 22 personnel who did not have access to the producing party's confidential or protected material; and
 23 (e) any information which the Parties agree in writing does not constitute confidential or protected
 24 material.

25 ***Inadvertent Failure to Designate and Inadvertent Disclosure***

26 14. Inadvertent Failure to Designate. If a party inadvertently discloses information,
 27 documents, or other materials containing CONFIDENTIAL or ATTORNEYS' EYES ONLY
 28 information without marking or labeling it as such, the information, documents, or other materials

1 do not lose their protected status by production. The producing party must take all steps reasonably
2 required to assure its continued confidentiality, including: (a) providing written notice to the
3 receiving party within 10 days of the discovery of the inadvertent production; (b) identifying the
4 information, document, or other materials in question; and (c) simultaneously providing
5 appropriately designated substitute copies. Within five (5) days of receiving notice and the
6 production of substitute copies, the receiving party must destroy or return undesignated
7 information, documents, or other materials and all copies thereof, and shall provide the producing
8 party with written confirmation of compliance with this Paragraph of the SPO.

9 15. Inadvertent Disclosure of Information Covered by Privilege including Attorney
10 Client Privilege, Joint Defense, or Work Product Protection (“Protected Status”) in Information,
11 Documents, or Other Materials Designated CONFIDENTIAL or ATTORNEYS’ EYES ONLY
12 Whether inadvertent or otherwise, the disclosure of any information, documents, or other materials
13 that are subject to an objection based on Protected Status will not be deemed to waive party’s claim
14 to its Protected Status and will not stop that party or the privilege holder from designating the
15 information or documents as covered by Protected Status at a later date.

16 16. If a person or entity inadvertently discloses information, documents, or other
17 materials that it believes is subject to a claim of Protected Status, the producing party may give
18 prompt written notice to the receiving party that the information, documents, or other materials are
19 subject to a claim of Protected Status. Upon receiving such notice, regardless of whether the
20 receiving party agrees with the claim of Protected Status, the receiving party must promptly return,
21 sequester, or destroy the specified information and any copies it has; must not use or disclose the
22 information until the claim is resolved; must take reasonable steps to retrieve the information if the
23 receiving party disclosed it to one or more third parties before being notified of the claim of
24 Protected Status; and may promptly present the information to the court under seal for a
25 determination of the claim provided, however, that the producing party first makes a reasonable
26 effort to resolve the dispute without court assistance. The producing party must preserve the
27 information until the claim is resolved.

28

LEX TECNICA
LTD
10161 Park Run Drive, Suite 150
Las Vegas, Nevada 89145
(702) 518-5535

1 *Maintenance of Designations*

2 17. Except as permissibly disclosed as provided in paragraphs 9-11 above, counsel for
 3 the parties must keep all information, documents, or other materials designated as
 4 CONFIDENTIAL or ATTORNEYS' EYES ONLY that are received under this SPO secure within
 5 their exclusive possession and must place the information, documents, or other materials in a secure
 6 area.

7 18. All documents, including attorney notes, abstracts, and copies, that contain
 8 another's CONFIDENTIAL or ATTORNEYS' EYES ONLY information must be handled as if
 9 they were so designated.

10 19. ~~If any discovery responses, deposition transcripts, memoranda, or any other papers~~
 11 ~~filed with the court include CONFIDENTIAL or ATTORNEYS' EYES ONLY information, they~~

See order issued
concurrently herewith ~~so designated and filed consistent with LR IA 10-5. If the sole ground for filing documents~~
~~ted CONFIDENTIAL or ATTORNEYS' EYES ONLY under seal is that the opposing party~~

14 ~~(or non-party) has designated the documents as CONFIDENTIAL or ATTORNEYS' EYES ONLY~~
 15 ~~under this SPO, then the designating party (or non-party) shall, within seven days after being served~~
 16 ~~with a motion to seal such documents, file and serve either: (a) a declaration establishing sufficient~~
 17 ~~legal justification for sealing each document at issue; or (b) a notice of withdrawal of the~~
 18 ~~designation(s) and consent to the unsealing of the document(s). If neither filing is made, the Court~~
 19 ~~may order the document(s) unsealed without further notice.~~

20 ~~20. If a filing contains information, documents, or other materials that were designated~~
 21 ~~CONFIDENTIAL or ATTORNEYS' EYES ONLY by a nonparty, the party making the filing must~~
 22 ~~provide prompt written notice of the filing to the nonparty.~~

23 21. If information, documents, or other materials are reviewed by a receiving party
 24 before production, any knowledge learned during the review will be treated by the receiving party
 25 as ATTORNEYS' EYES ONLY until the information has been produced, at which time an affixed
 26 designation controls. Absent the express permission of the producing party, or as otherwise
 27 permitted by an order or rule of the Court, no photograph or any other means of duplication,
 28 including electronic means, is permitted before the information is produced with the appropriate

1 designation. Any such duplicate will be treated by the receiving party as having the same
2 designation as the original. There will be no waiver of confidentiality by the inspection of
3 confidential information, documents, or other materials before they are copied and designated.

4 22. If a question is asked at a deposition and a party claims the answer requires the
5 disclosure of CONFIDENTIAL or ATTORNEYS' EYES ONLY information, the following must
6 occur:

7 a. every person present must be advised of this SPO by the party asserting
8 confidentiality;

9 b. all persons who are not allowed to receive the information under this SPO, other
10 than the witness, must leave the deposition while the information designated as
11 CONFIDENTIAL or ATTORNEYS' EYES ONLY is disclosed; and

12 c. the witness must answer the question completely.

13 23. If a receiving party is served a subpoena or court order, issued in a separate action,
14 that seeks CONFIDENTIAL or ATTORNEYS' EYES ONLY designated information, documents,
15 or other materials produced by another party in this action, the receiving party must give written
16 notice of the same within no more than three (3) business days to counsel for the producing party
17 to allow the producing party a meaningful opportunity to challenge the subpoena or court order
18 before the deadline to comply. Such written notice must include a copy of the subpoena or court
19 order. The receiving party must also immediately (1) inform in writing the party or authority that
20 caused the subpoena or order to issue in the other litigation or judicial proceeding, that some or all
21 the material sought is the subject of this SPO and (2) deliver a copy of this SPO promptly to that
22 party or authority. The producing party shall bear the burden and the expenses of seeking protection
23 of its CONFIDENTIAL or ATTORNEYS' EYES ONLY designated information in the court or
24 other forum from which the subpoena or order issued. No compulsory disclosure to nonparties of
25 CONFIDENTIAL or ATTORNEYS' EYES ONLY designated information, documents, or other
26 materials under this SPO is deemed a waiver of any claim of confidentiality, except when there is
27 a judicial determination finding otherwise. Nothing in the provisions of this paragraph should be
28

1 construed as authorizing or encouraging a receiving party in this action to disobey a lawful directive
 2 from another court or judicial authority.

3 ***Challenges to a Designation***

4 24. A party may challenge the producing party's designation of CONFIDENTIAL or
 5 ATTORNEYS' EYES ONLY at any time except within fifteen (15) days of the dispositive motion
 6 deadline or trial.

7 25. To challenge the designation of CONFIDENTIAL or ATTORNEYS' EYES ONLY,
 8 the receiving party must make reasonable efforts, without court assistance, to resolve the dispute.
 9 At a minimum, those efforts must include:

10 a. a prompt written communication sent to the producing party identifying the
 11 information, documents, or other materials at issue and specifying why they believe the
 designation is improper; and

12 b. a request that the producing party meet and confer, including suggested dates and
 times.

13 26. If the parties are unable to resolve the dispute after engaging in reasonable efforts
 14 as set forth in paragraph 25(a)-(b), the receiving party may file a motion to compel a change in the
 15 designation. The motion must include a certification that states:

16 a. the parties made reasonable efforts to reach agreement on the disputed matters;
 17 b. the date, time, and method of the reasonable efforts; and
 18 c. the names of all participating parties or attorneys.

19 27. In the event of a motion to compel or other dispute over the propriety of a
 20 CONFIDENTIAL or ATTORNEYS' EYES ONLY designation, the producing party bears the
 21 burden of proving that the designation is proper. The producing party's failure to engage in
 22 reasonable efforts to resolve the dispute or respond to an appropriately filed motion may result in
 23 the designation as requested by the receiving party.

24 28. ~~If a dispute about a CONFIDENTIAL or ATTORNEYS' EYES ONLY designation
 25 or a dispute about whether a document is subject to Protected Status delays discovery, these
 26 proceedings, or prevents a full and fair examination of a witness during its, his, or her deposition,~~

The meet-and-confer
must be held in
compliance with LR IA
1-3(f).

LEXTE
10101 Park Run
Las Vegas, N
(702) 5

DENIED. See Fed. R. Civ. P. 29(b).

the parties agree that upon resolution of the dispute in favor of the party seeking the discovery, the discovery may be had at a later date including, if necessary, after the close of discovery, to ensure such delay does not prejudice the party's ability to obtain discovery.

4 ***Conclusion of Litigation***

5 29. Unless otherwise ordered or agreed in writing by the designating party, within sixty
 6 (60) calendar days after the final termination of this Action, including any and all appeals, each
 7 receiving party must return all designated material, except attorney work product, to the designating
 8 party, or, with the written permission of the designating party, destroy such material and certify
 9 that fact in writing to the designating party.

10 30. Notwithstanding the requirements of the preceding paragraph, a party may retain a
 11 complete set of all documents filed with the Court, subject to all other restrictions of this SPO.

12 31. The provisions of this SPO shall not be binding to the extent that such provisions
 13 conflict with applicable Federal or State law.

14 ***Continuing Jurisdiction to Enforce***

15 32. After the termination of this action, the Court will continue to have jurisdiction to
 16 enforce this SPO.

17 33. Nothing in this Protective Order abridges the right of any person to seek
 18 modification of this Protective Order from the Court in the future.

19 34. This Protective Order shall not prevent, or otherwise restrict counsel from
 20 rendering advice to their clients, and, in the course thereof, relying generally on examination of
 21 designated material, provided that, in rendering such advice, and otherwise communicating with
 22 such clients, counsel shall not make disclosure of the designated material except as otherwise
 23 permitted by this Protective Order

24 IT IS SO ORDERED.

25 Dated: May 20, 2025

26 .
 27 .
 28 .
 Nancy J. Koppe
 United States Magistrate Judge

LEX TECNICA
LTD
10161 Park Run Drive, Suite 150
Las Vegas, Nevada 89145
(702) 518-5535

1 **IT IS SO AGREED AND STIPULATED:**

2 Dated: April 8, 2025.

3 **LEX TECNICA, LTD.**

4
5 /s/ F. Christopher Austin

6 F. Christopher Austin, Esq. (NVB 6559)
10161 Park Run Drive, Suite 150
7 Las Vegas, Nevada 89145

8 *Attorneys for Plaintiff Adherence*

9
10 Dated: April 8, 2025

11 **DECHERT LLP**

12
13 /s/ Jennifer Insley-Pruitt

14 JENNIFER INSLEY-PRUITT, ESQ.
Three Bryant Park
1095 Avenue of the Americas
15 New York, New York 10036
Telephone: (212) 698-3653
16 *Attorneys for Defendants CVS Pharmacy, Inc.*
And Asembia, LLC

17 **LEX TECNICA**

18 LTD
19 10161 Park Run Drive, Suite 150
20 Las Vegas, Nevada 89145
21 (702) 518-5535

22
23
24
25
26
27
28